

## MALPRACTICE AND MALADMINISTRATION POLICY

### Introduction

This document is intended for anyone involved in managing the delivery of general and vocational qualifications. It is important for persons involved in the delivery of our qualifications to be fully aware of the contents of this document and its possible implications should they fail to comply with the requirements specified by the Regulator's General Conditions of Recognition and Awarding Body requirements in relation to the delivery of qualifications. The Awarding Body has a responsibility to learners taking qualifications and the Regulators to ensure that Geeks Room CiC deliver qualifications in accordance with the requirements. To meet this responsibility, the performance of Geeks Room CiC will be monitored by Awarding Body Team, including a bank of External Verifiers (EV's) and Auditors.

This document details the procedures for investigating and determining allegations of malpractice which in their fairness, thoroughness, impartiality and objectivity meet or exceed the requirements of current law in relation to such matters. It has been based on the Suspected Malpractice Policies and Procedures produced by the Joint Council for Qualifications (JCQ) which will be referred to in any suspected malpractice incidents.

### What is Malpractice

Malpractice means any act, default or practice which is in breach of the Regulations or which:

- compromises the integrity of the assessment process and/or the validity of the result or certificate;
- gives rise to prejudice to candidates; and/or
- compromises public confidence in qualifications; and or
- damages the authority, reputation or credibility of any awarding body or centre or any officer, employee or agent of the awarding body or centre.

Malpractice can occur at training provider level, learner level or within the awarding body.

### Examples of malpractice include:

- a breach of security (e.g. failure to keep test material secure, tampering with results);
- deception (e.g. deliberate falsification of test records or manufacturing evidence);
- taking bribes;
- selling or disclosing live test material;
- improper assistance to learners (e.g. prompting learners when answering test questions by means of signs, verbal or written prompts or allowing learners to have access to prohibited materials (e.g. dictionaries or calculators);
- sitting the test for the learner;
- deliberate conflict of interest which compromises the integrity of the test (e.g. the invigilator has an invested interest in the outcome of the test);
- failure to notify the Awarding Body of an actual or suspected malpractice when known;
- failure to co-operate with a Awarding Body investigation;
- failure to investigate if requested by the Awarding Body;
- there is a substantial error in our assessment materials;

- learner collusion (not reportable to a Regulator if no certificates have been awarded);
- learner plagiarism (not reportable to a Regulator if no certificates have been awarded);

## What is Maladministration

Any activity or neglect that results in the training provider or learner not complying with the specified requirements for delivery of the qualification. Examples of Maladministration include:

- inappropriate retention or destruction of records;
- failure to ensure appropriate test conditions;
- poor administration (failure to have appropriate records);
- failure to have appropriately trained staff;
- breach of re-sit rule;
- incorrect invigilator used for a live test;
- Geeks Room CiC staff take test for their own purposes that does not adhere to the Awarding Body regulations (not to assist the learner)
- Geeks Room CiC staff registering themselves for the test as a learner to view the test content with the aim to assist teaching (not to assist the learner);
- registering a learner after a live test;
- accidentally logging a learner onto the wrong test;
- anyone involved in the delivery of the qualification invigilating the test;
- sharing keys and passwords inappropriately;
- additional attempts greater than the number of test papers as outlined in the qualification specification;
- giving learner assistance with reasonable adjustments when not authorised to do so
- ignorance of the regulations;
- carelessness or forgetfulness when applying the regulations;
- unintentional conflict of interest;
- invigilator leaving the room during a live test;
- failure to check that learners do not have unauthorised material in the test room
- requesting access arrangements for learners who do not meet the requirements
- the Awarding Body loses one single script (with no live questions compromised).

It is worth noting that these are categorised for first time instances, however, if the Awarding Body see repeated instances then it is possible that the act / omission could be assessed as deliberate and malpractice may be considered. Other instances of malpractice or maladministration may be identified and considered by the Awarding Body at their discretion.

All allegations of malpractice or maladministration will be investigated. This is to protect the integrity of the qualification and to be fair to the training provider and all learners. Any suspected instances of malpractice or maladministration need to be reported to the Awarding Body as soon as you are aware of an event and the Awarding Body will, in turn, report these to the appropriate Regulator(s)

## Awarding Body Responsibilities

Regulators require all Awarding Bodies to be responsible in taking all reasonable steps to prevent malpractice and maladministration. Full details can be found in the General Conditions of Recognition. If we are advised of, or suspect malpractice or maladministration, then the Awarding Body are required to either carry out any investigations or ensure that • Geeks Room CiC investigations are carried out rigorously, effectively, and by persons of appropriate competence who have no personal interest in their outcome. If there is any doubt about the integrity of a Centre or the person leading the investigation then the Awarding Body will conduct the investigation. The

Awarding Body has procedures in place to reduce the possibility of malpractice. These procedures are to minimise areas of malpractice with regards to:

- maintaining the confidentiality of assessment materials;
- ensuring prohibited materials are not taken into the live test / assessment;
- minimising the opportunity for inappropriate assistance;
- ensuring that results cannot be falsified;
- ensuring that we have back up papers / questions in place in the event that a test / assessment is compromised;
- keeping existing and potential new risks under review.
- Training Provider Responsibilities

The Awarding Body will work with Geeks Room CiC to make sure you are aware of your responsibilities as a training provider to prevent malpractice and maladministration. Whilst it is impossible to remove the risk of malpractice or maladministration occurring, by adhering to the points listed below a training provider can go some way to strengthening their internal arrangements in this area:

- ensure all relevant staff are aware of and have read relevant policies and procedures
- ensure all relevant staff receive appropriate training
- ensure staff have clear roles and responsibilities
- have a documented internal quality assurance procedure that is reviewed regularly
- carry out internal verification activities to evidence compliance
- ensure records are subject to appropriate internal review
- regular data analysis review

If there is malpractice or suspected malpractice the Centre Manager or other appropriate senior member of staff must:

- we will notify The Awarding Body at the earliest opportunity;
- ensure that the evidence gathering team is independent and not connected to the department or learner involved in the suspected malpractice. This is to avoid conflicts of interest which can otherwise compromise the investigation;
- respond speedily and openly to all requests for evidence gathering into an allegation of malpractice;
- make available information as requested by The Awarding Body;
- co-operate and ensure their staff do so with an enquiry into an allegation of malpractice, whether the training provider is directly involved in the case or not;
- inform staff members and learners of their individual responsibilities and rights as set out in these guidelines
- pass on to the individuals concerned any warnings or notifications of penalties and ensure compliance with any requests made by The Awarding Body because of a malpractice case.

## **How the Awarding Body will deal with allegations of Malpractice**

### **Identification**

- There will be several ways to identify malpractice and suspected malpractice such as:
- on-going quality assurance activity and monitoring e.g. internal verification activity;
- intelligence, complaints or feedback;
- scheduled quality assurance activity and monitoring;

Anyone who suspects malpractice has a responsibility to notify The Awarding Body without delay.

## **The Allegation**

A full account of the incident must be submitted in writing together with supporting evidence to the Geeks Room CiC Admin [admin@geeksroom.org.uk](mailto:admin@geeksroom.org.uk). The report would normally be submitted by the Centre Manager or a member of staff. It could also be reported by a learner or any other interested party.

If for some reason, the alleged incident cannot be made in writing, the staff member taking the call must capture as much information as possible by completing the form "Transcript of the Call" and save this in the relevant malpractice folder.

The Awarding Body is aware that the reporting of malpractice by a member of staff or a learner can create a difficult environment for that staff member or learner. Accordingly, the Awarding Body will try to protect the identity of an informant if this is asked for at the time the information is given. Staff making allegations of malpractice may be protected by the Public Interest Disclosure Act 1998. Please refer to the Geeks Room CiC Whistleblowing Policy for further information.

All allegations must be recorded in the Group Operations Quality Log. The Malpractice / Maladministration Report must be used to log the allegation and will be the working document for the case.

## **The Awarding Body's response to an allegation of malpractice**

In the case of a notification of suspected malpractice, the Awarding Body will consider the information provided and decide to do one of the following:

- take no further action;
- bring the matter to the attention of the Centre Manager or person responsible for the delivery of the Awarding Body qualifications, or another suitably qualified individual, asking them to gather evidence into the alleged malpractice and produce a written report of the outcome to the Awarding Body;
- investigate the matter independently, especially where there is an allegation of fraud or serious threat to the integrity of certification, where there is an allegation against the Centre Manager, or where the training provider does not have the capacity to conduct evidence gathering in an unbiased way;
- nominate a third party to conduct the investigation on our behalf.

The Awarding Body will typically communicate with the Centre Manager regarding allegations of malpractice, except when the Centre Manager or management of the training provider is under investigation. In such cases, communications will be with another person nominated to investigate the matter by the Awarding Body, such as the Head Of management, Chair of board of Directors.

The Awarding Body has the right to communicate directly with members of training provider staff who have been accused of malpractice if the circumstances warrant this, e.g. the staff member is no longer employed or engaged by the training provider. The nominated member of staff must facilitate communications between the Awarding Body and the individual concerned if requested to do so.

The Awarding Body may also choose to communicate with a learner directly if the circumstances of the case require us to. (For example, if there is a contradiction in the evidence provided by the learner and the training provider, or the training provider is suspected of non-compliance with the regulations.) In such cases the Awarding Body may choose to advise the Centre Manager that it proposes to contact the learner directly. A Centre Manager, once advised by the Awarding Body, should not ordinarily communicate further with the learner.

Regardless of whether the allegation of malpractice is proven or not, to ensure the integrity of, and public confidence in, future tests, the Awarding Body may undertake additional inspections and/or monitoring, and/or require additional actions. It is the responsibility of the Centre Manager to inform the accused individual that the Awarding Body may share information with third parties.

## **Investigation Objectives**

Investigations into malpractice and suspected malpractice should aim to:

- Establish the facts relating to allegations/complaints to determine whether any irregularities have occurred. It is important to remember that just because an allegation has been made it should not be assumed that malpractice has occurred
- Establish the facts, circumstances and scale of the alleged malpractice. In considering the scale of the malpractice, it is important that the investigation is not too narrowly focused and considers the broader impact the malpractice could have on the training provider, learners or qualifications
- Identify the cause of the irregularities and those involved
- Identify and, if necessary, take actions to minimise the risk to current learners and requests for certification
- Evaluate any actions already taken by the training provider
- Determine whether any remedial actions are required to reduce the risk to current learners and to preserve the integrity of the qualification
- Ascertain whether any action is required in respect of certificates already issued
- Obtain evidence to support the investigation
- Identify any patterns or trends
- Identify any changes to training provider policy or procedure or Awarding Body policies or procedures

## **The Investigation**

The Awarding Body will lead any investigation into suspected malpractice and will expect full co-operation from the Centre Manager or suitable representative if the Centre Manager is unable to assist the Awarding Body. The Centre Manager must respond to the Awarding Body requests to investigate promptly and in accordance with the guidelines and deadlines set.

Those responsible for investigating should seek evidence from which the full facts and circumstances of any alleged malpractice can be established. It should not be assumed that because an allegation has been made, it is true. The fundamental principle of an investigation is to conduct it in a fair, reasonable and legal manner ensuring that all relevant information is considered without bias and as quickly as possible. The Awarding Body will use the forms provided by JCQ to conduct the investigation or its own version, whichever is more appropriate.

Individuals accused of malpractice should normally be made fully aware at the earliest opportunity of the nature of the allegation, preferably in writing, of the information used to notify the Awarding Body of the malpractice, and the possible consequences should malpractice be proven. They must also be given the opportunity to respond, preferably in writing, to the allegation made against them. Reference should also be made to Section which deals with the rights of the accused individuals.

The person supporting the Awarding Body with its investigation must ensure there is no conflict of interest, organise an investigation into the alleged malpractice and then submit a report to the Awarding Body. There must not be a conflict of interest between the person conducting the investigation and the individual(s) accused of malpractice. The person conducting the investigation must have no personal interest in the

outcome of that investigation. The Centre Manager or representative should consider that both staff and learners can be responsible for malpractice or maladministration.

If the training provider investigation is delegated to another senior member of training provider staff, the Centre Manager must still retain overall responsibility for the investigation within the training provider unless they are directly implicated in the alleged malpractice or there is a conflict of interest. In selecting a suitable senior member of training provider staff, the Centre Manager must take all reasonable steps to avoid a conflict of interest. Where a conflict of interest may be seen to arise, investigations into suspected malpractice should not be delegated to the manager of the section, team or department involved in the suspected malpractice. In the event of any concerns regarding conflicts of interest or the suitability of the potential investigator, the Centre Manager or representative must contact the Awarding Body as soon as possible to discuss the matter.

The Awarding Body will not normally withhold any evidence or material obtained or created during an investigation into an allegation of malpractice from the Centre Manager. However, we may do so where this would involve disclosing the identity of an informant who has asked for his/her identity to remain confidential. In such cases, the Awarding Body will provide the evidence and material and will withhold information that would reveal the person's identity and will explain why the withheld information cannot be provided.

If investigations reveal that learners had prior knowledge of the content of a live test, the Awarding Body will establish whether information could have been divulged to learners at other training providers or to other unauthorised persons. It may be necessary to interview a learner during an investigation. If the learner is a minor or a vulnerable adult, and if the interview is to be conducted face to face, the interview must only be done in the presence of an appropriate adult who is impartial to the investigation such as the learner's parent/carer, the Centre Manager, or other senior member of staff. Interviews may also be conducted over the telephone. Any interview must also be conducted in accordance with the training provider's own policy for conducting disciplinary enquiries.

When it is necessary to conduct an interview with a staff member, the member of staff being interviewed may be accompanied by a friend or advisor who is impartial to the investigation (who may be a representative of a teacher association or other association).

The involvement of legal advisors is not necessary, at least where there is no allegation of criminal behaviour. However, if any party wishes to be accompanied, for example by a solicitor or trade union official, the other parties must be informed beforehand to give them the opportunity to be similarly supported. The person accompanying the interviewee should not take an active part in the interview, he/she is not to answer questions on the interviewee's behalf. It will not be liable for any professional fees incurred. The Centre Manager is required to make available an appropriate venue for such interviews. Interviews may also be conducted over the telephone. Individuals involved may be requested to provide a written statement.

The "Suspected Malpractice Investigation" checklist must be used to document the points to cover during the investigation.

***The investigation must determine:***

- who was involved in the incident, including learners, members of staff and/or invigilators;
- the facts of the case, as established from evidence and/or statements from those involved.

**Rights of the Accused during the Investigation**

When, in the view of the investigator, there is sufficient evidence to implicate an individual in malpractice, that individual (a learner or a member of staff) accused of malpractice must:

- be informed in writing of the allegation made against him or her;
- know the possible consequences should malpractice be proven;
- can consider their response to the allegations (if required);
- have an opportunity to submit a written statement;
- be informed that he/she will have the opportunity to read the submission and make an additional statement in response, should the case be put to the Malpractice Committee;
- have an opportunity to seek advice (as necessary) and to provide a supplementary statement (if required);
- be informed of the applicable appeals procedure, should a decision be made against him or her;
- be informed of the possibility that information relating to a serious case of malpractice may be shared with other the Awarding Body, the regulators, the police and/or other bodies as appropriate.

Responsibility for informing the accused individual rests with the Centre Manager. In certain circumstances, it may be necessary for the Centre Manager to exercise discretion, in the light of all the circumstances of the case, as to the timing and how an allegation of malpractice and the supporting evidence is presented to the individual(s) involved.

By their very nature investigations usually necessitate access to information that is confidential to a training provider or individual. All material collected as part of the investigation must be kept secure and not normally disclosed to third parties (other than the regulators, or the police where appropriate). All relevant documents and evidence must be retained for a minimum of one year following the conclusion of the investigation.

### **The Report**

Where the investigation into the alleged malpractice has been carried out by the training provider, the Centre Manager must submit a full written report of the case to the Awarding Body CPQ Team. The report should be accompanied by the following documentation, as appropriate:

- a statement of the facts, a clear and detailed account of the circumstances of the alleged malpractice, and details of any investigations carried out by the training provider
- the evidence relevant to the allegation, such as written statement(s) from the invigilator(s), assessor, internal verifier(s) or other staff who are involved
- written statements from the learners, teachers, invigilators or other members of staff concerned which must be signed and dated
- any exculpatory evidence and/or mitigating factors
- information about the training provider's procedures for advising learners and training provider staff of the Awarding Body' regulations
- seating plans showing the exact position of learners in the test room
- unauthorised material found in the test room
- any work of the learner and any associated material (e.g. source material for coursework) which is relevant to the investigation
- any other evidence relevant to the investigation

The Awarding Body will decide based on the report, and any supporting documentation, whether there is evidence of malpractice and if any further investigation is required. The Centre Manager will be informed accordingly.

## The Decision

To determine the outcomes in cases of alleged malpractice the Awarding Body will normally convene the Malpractice Committee composed of internal and/or external members experienced in test and assessment procedures. The Committee may also be assisted by another member of staff who has not been directly involved in the investigation. Alternatively, this function may be allocated to a named member or members of staff.

The work of the Committee is confidential. Members of the Committee are required to identify any case of which they have personal knowledge or might be said to have some interest which could lead to an inference that the Committee had been biased. Any member with a close personal interest will take no part in the discussion of the case and will not be present when the Committee discusses the matter.

Accused individuals, Centre Manager or their representatives are not entitled to be present at meetings of the Committee. However, the person against whom the allegation has been made will be given the opportunity to make a written statement to the Committee considering the material provided.

The key principle underpinning the composition of the Committee is that it is independent of those who have conducted the investigation. Geeks Room CiC's staff who have directly investigated the case will play no role in the decision-making process. No-one who declares an interest in the outcome of the case will be present in the room when the case is considered.

In deciding on any report, the Committee will establish that correct procedures have been followed in the investigation of the case, and that all individuals involved have been given the opportunity to make a written statement.

If satisfied, the Committee will consider:

- the regulatory criteria which is alleged to have been compromised
- the facts of the case
- whether malpractice is occurred
- who is responsible if criteria have been compromised
- any points of mitigation

If the Committee is satisfied that there is sufficient evidence that malpractice has occurred, the Committee will then determine:

- appropriate measures to be taken to protect the integrity of the assessment and to prevent future breaches
- the nature of any sanction or penalty to be applied

Each case of suspected malpractice will be considered and judged on an individual basis in the light of all information available. Where there is an established, clearly evidenced, repeated pattern of behaviour this may be taken into consideration when determining whether a sanction should be applied. The Committee will seek to make decisions unanimously, but if necessary may decide by a majority.

The Committee must be satisfied from the evidence before it that on the balance of probabilities the alleged malpractice occurred (i.e. that it is more likely than not). It is possible that the evidence in some cases may be inconclusive, but the Awarding Body may decline to accept the work of the learners to protect the integrity of the qualification for the majority.

In situations where a case is deferred because the Committee requires further information to decide, the deferral and the nature of the request will be shared with the investigation team and Centre Manager.



In straightforward cases where the evidence is not contested or in doubt, the Awarding Body may invoke a summary procedure. Sanctions may be applied and notified to an individual or training provider following consideration of the case by an awarding body member of staff. Sanctions and penalties applied under this summary procedure are subject to appeal, as are all other sanctions and penalties resulting from cases of malpractice.

Once a decision has been made, it will be communicated in writing to the Centre Manager/ Responsible Person as soon as possible. It is the responsibility of the Centre Manager to communicate the decision to the individuals concerned, and to pass on warnings in cases where this is indicated.

Most cases of malpractice are confidential between the individual training provider, the individual who engaged in the malpractice and the Awarding Body. However, in cases of serious malpractice, where the threat to the integrity of the assessment is such as to outweigh a duty of confidentiality, it may be necessary for information to be exchanged with other interested parties as per Section 4.9.

### **Notifying the Regulators and Other Interested Parties**

The Awarding Body will report cases of malpractice to the relevant Regulator if the circumstances of the case are likely to meet the definition of an Adverse Effect as defined in Condition B3.2 of the General Conditions of Recognition. This will include details of the action taken by the Centre Manager, the governing body or the responsible employer.

The Awarding Body will also alert other awarding bodies of cases of malpractice where these cases are likely to impact on other awarding bodies. This will usually be appropriate where:

- The training provider where the malpractice has occurred is also approved with another awarding body (for the same or different qualifications) and the malpractice could potentially impact on the activities undertaken by that awarding body
- The training provider where the malpractice has occurred may move their operations to another awarding body in an attempt to avoid sanctions and continue sub-standard practices
- The training provider where the malpractice has occurred has indicated they are seeking approval with another awarding body (for the same or different qualifications)

The Awarding Body will only provide factual information to another Awarding Body once the malpractice has been proven and following the conclusion of the investigation. It is up to the receiving awarding body to decide what action to take as a result of the information received and the Awarding Body is not required to propose any action that the other awarding bodies are required to take.

The Awarding Body also reserves the right to notify the police if deemed appropriate.

## **Sanctions and Penalties for Training Providers**

In cases of malpractice, the primary role of the Awarding Body is to consider whether the integrity of the qualification has been placed in jeopardy. The Awarding Body will also consider whether that integrity might be jeopardised if an individual found to have committed malpractice were to be involved in the future conduct, supervision or administration of the Awarding Body's assessments.

The Awarding Body will determine the application of a sanction according to the evidence presented, the nature and circumstances of the malpractice, and the type of qualification involved. Not all the sanctions are applicable to every type of qualification or circumstance.

The Awarding Body will normally impose sanctions and penalties on individuals found guilty of malpractice. These will usually be the learner(s) or the responsible member(s) of staff. However, when malpractice is judged to be the result of a serious management failure within a department or the whole training provider, the Awarding Body may apply sanctions against the whole department or training provider. In these cases, the Awarding Body may make special arrangements to safeguard the interests of learners who might otherwise be adversely affected.

The Awarding Body has a range of sanctions that can be imposed on a Training Provider, Staff Member or Learner where malpractice has been proven. In determining the appropriate sanction or penalty, the Awarding Body will consider factors including:

- the seriousness of the situation
- the potential risk to the integrity of the qualification
- the number of learners and/or training providers affected
- the level and track-record of the Training Provider's non-compliance
- the adverse impact on learners
- any mitigating circumstances
- the effect on public confidence in the qualification(s) including employers or members of the public.

It is not the role of the Awarding Body to be involved in any matter affecting the member of staff's or contractor's contractual relationship with his/her employer. The Awarding Body recognise that employers may take a different view of an allegation to that determined by the Awarding Body or its Committee. An employer may wish to finalise its decision after the Awarding Body or its Committee has reached its conclusion.

Ignorance of the regulations will not, by itself, be considered a mitigating factor.

The Awarding Body impose sanctions and penalties on individuals and on training providers responsible for malpractice to:

- minimise the risk to the integrity of tests and assessments, both in the present and in the future
- maintain the confidence of the public in the delivery and awarding of qualifications
- ensure as a minimum that there is nothing to gain from breaking the regulations
- deter others from doing likewise.

Our aim is to ensure that the application of sanctions is fair, appropriate and proportionate.

The Awarding Body will endeavour to protect a learner who, through no fault of their own, are caught up in a malpractice incident. It should, however, be accepted that there may be instances where the work submitted for assessment does not represent the efforts of the individual learners and it may not be possible to give those learners a result or permit a result to be retained. When considering the action to be taken, the Awarding Body will balance responsibilities towards the rest of the cohort and the individuals caught up in the malpractice incident. Results and/or the submission of performance points data to the DfE may also not be sent or may be revoked in cases where malpractice has occurred, but it was not established clearly who was to blame.

In cases where it is not reasonable or possible to determine responsibility for malpractice, and where the integrity of the assessment has been impaired in respect of an individual or individuals, the Awarding Body may decide not to accept the work submitted or undertaken for assessment or may decide it would be unsafe to make awards or permit awards to be retained. In these cases, the learner(s) may re-take, where available, the test/assessment at the next opportunity or, where the qualification permits, provide additional proof of competence.

The Awarding Body reserves the right to apply sanctions and penalties flexibly, outside of the defined ranges, if mitigating or aggravating circumstances are found to exist.

For consistency of approach in the application of sanctions and penalties, the Awarding Body will not consider the consequential effects (for example on university or job applications) of any sanction or penalty which might arise from circumstances of the individual.

The Centre Manager must inform those individuals found guilty of malpractice that information may be passed onto other the Awarding Body and/or other appropriate authorities. This information will typically be the names and offences of those found guilty of breaching the published regulations.

Where malpractice has been proven, the Awarding Body may impose one or more of the following remedial actions, sanctions or penalties:

**1. Written warning**

Issue a written warning advising of the breach that if the offence is repeated within a set period, further measures will be applied.

**2. Training**

Require the member of staff, as a condition of future involvement in its tests and/or assessments, to undertake specific training or mentoring within a particular period of time and a review process at the end of the training.

**3. Special conditions**

Impose special conditions on the future involvement in its tests and/or assessments by the member of staff, whether this involves the internal assessment, the conduct, supervision or administration of its tests and assessments.

**4. Suspension**

Bar the member of staff from all involvement in the delivery or administration of its tests for a set period. Other the Awarding Body and the regulators may be informed when a suspension is imposed.

**5. Review and Report (Action Plans)**

The Centre Manager will be required to review the training provider's procedures for the conduct or administration of tests in general and/or a plan to the Awarding Body to provide assurance that sanctions have been appropriately applied. The Centre Manager will additionally be required to report back to the Awarding Body on improvements implemented by a set date. Alternatively, an action plan will be agreed between the Awarding Body and the training provider and will need to be implemented as a condition of continuing to accept entries or registrations from the training provider.

**6. Approval of specific assessment tasks**

The approval by the Awarding Body of specific assessment tasks in situations where these are normally left to the discretion of the training provider.

**7. Additional monitoring or inspection**

The Awarding Body may increase, at the training provider's expense, the normal level of monitoring that takes place in relation to the qualification(s). Alternatively, the Awarding Body may be notified of the breach of regulations and may randomly, and without prior warning, inspect the training provider over and above the normal schedule for inspections.

**8. Restrictions on testing**

For a specified period, a training provider will be suspended from testing. These measures may be applied for selected qualifications or all qualifications.

**9. Independent invigilators**

The appointment for a specified period, at the training provider's expense, of independent invigilators to ensure the conduct of tests is in accordance with the published regulations.

**10. Suspension of learner registrations or entries**

The Awarding Body may, for a period, or until a specific matter has been rectified, refuse to accept learner entries or registrations from a training provider. This may be applied for selected subjects/occupational areas or all subjects/occupational areas.

**11. Suspension of certification**

The Awarding Body may, for a period, or until a specific matter has been rectified, refuse to issue certificates to learners from a training provider.

**12. Withdrawal of approval for a specific qualification(s)**

The Awarding Body may withdraw the approval of a training provider to offer one or more qualifications issued by that awarding body.

**13. Withdrawal of training provider recognition**

The Awarding Body may withdraw recognition or approval for the training provider. This means the training provider will not be able to deliver or offer the Awarding Body qualifications to learners. The regulators and other appropriate authorities will be informed of this action. At the time of withdrawal of training provider recognition, where determined by the Awarding Body, a training provider may be informed of the earliest date it can re-apply for accreditation and any measures it will need to take prior to this application. Training providers which have had recognition withdrawn should not assume that re-approval will be treated as a formality.

Any expense incurred in ensuring compliance with the penalties and/or special conditions must be borne by the training provider.

The Awarding Body will determine the application of a sanction or penalty according to the evidence presented, the nature and circumstances of the malpractice, and the type of qualification involved. Not all the sanctions and penalties are appropriate to every type of qualification or circumstance.

These penalties may be applied individually or in combination. The table in Appendix 1 shows how the sanctions and penalties might be applied. Please also refer to the Breaches Policy.

## **Sanctions and Penalties - Learners**

The Awarding Body will determine the application of a sanction or penalty according to the evidence presented, the nature and circumstances of the malpractice, and the type of qualification involved. Not all the sanctions and penalties are appropriate to every type of qualification or circumstance.

During the investigation, and pending any sanctions or penalties, the learner(s) are not permitted to undertake any live testing for the Awarding Body qualifications. It is the responsibility of the Centre to ensure this is enforced. Further guidance will be given with the outcome of the investigation.

These penalties may be applied individually or in combination. The table in Appendix 2 shows how the sanctions and penalties might be applied.

The Awarding Body may, at our discretion, impose the following sanctions against learners.

**1. Warning**

The learner is issued with a warning that if the offence is repeated within a set period, further specified sanctions will be applied.

**2. Disqualification from a unit**

The learner is disqualified from the unit. This penalty is only available if the qualification is unitised. The effect of this penalty is to prevent the learner aggregating or requesting certification in that series if the learner has applied for it.

### **3. Disqualification from a whole qualification**

The learner is disqualified from the whole qualification taken in that series or academic year. This penalty can be applied to unitised qualifications only if the learner has requested aggregation. Any units banked in a previous series are retained, but the units taken in the present series and the aggregation opportunity are lost. If a learner has not requested aggregation the option is penalty 4. It may also be used with linear qualifications.

### **4. Learner debarral**

The learner is barred from entering for one or more tests for a set period. This penalty is applied in conjunction with any of the other penalties above, if the circumstances warrant it.

Unless a penalty is accompanied by a bar on future entry, all learners penalised by disqualification, may re-take the qualification affected if the specification permits this.

Once a decision has been made, it will be communicated to the Centre Manager as soon as possible. It is the responsibility of the Centre Manager to communicate the decision to the individuals concerned. Please also refer to the Breaches Policy.

## **Training Provider Appeals**

If a training provider disagrees with a decision, it has the right to appeal. The appeal must be submitted in writing requesting a review of the decision and outlining why the training provider thinks the Awarding Body decision is wrong. The Awarding Body will respond to all appeals in line with our Training Provider Appeals Policy. In the case where the training provider believes there has been maladministration by the Awarding Body then they have the right to raise this matter directly with the appropriate Regulator.

## **Learner Appeals**

It is the responsibility of training providers to advise learners they have the right to appeal a decision where a case of malpractice has been upheld. Learners should be aware of the training provider's internal appeals process, and that this includes the right to appeal to the Awarding Body.

Candidates have the right to appeal where:

- the training provider has provided evidence that the learner disagrees with
- the Awarding Body has conducted its own investigation without training provider's involvement and the learner disagrees with the outcome

## **Maintaining Records**

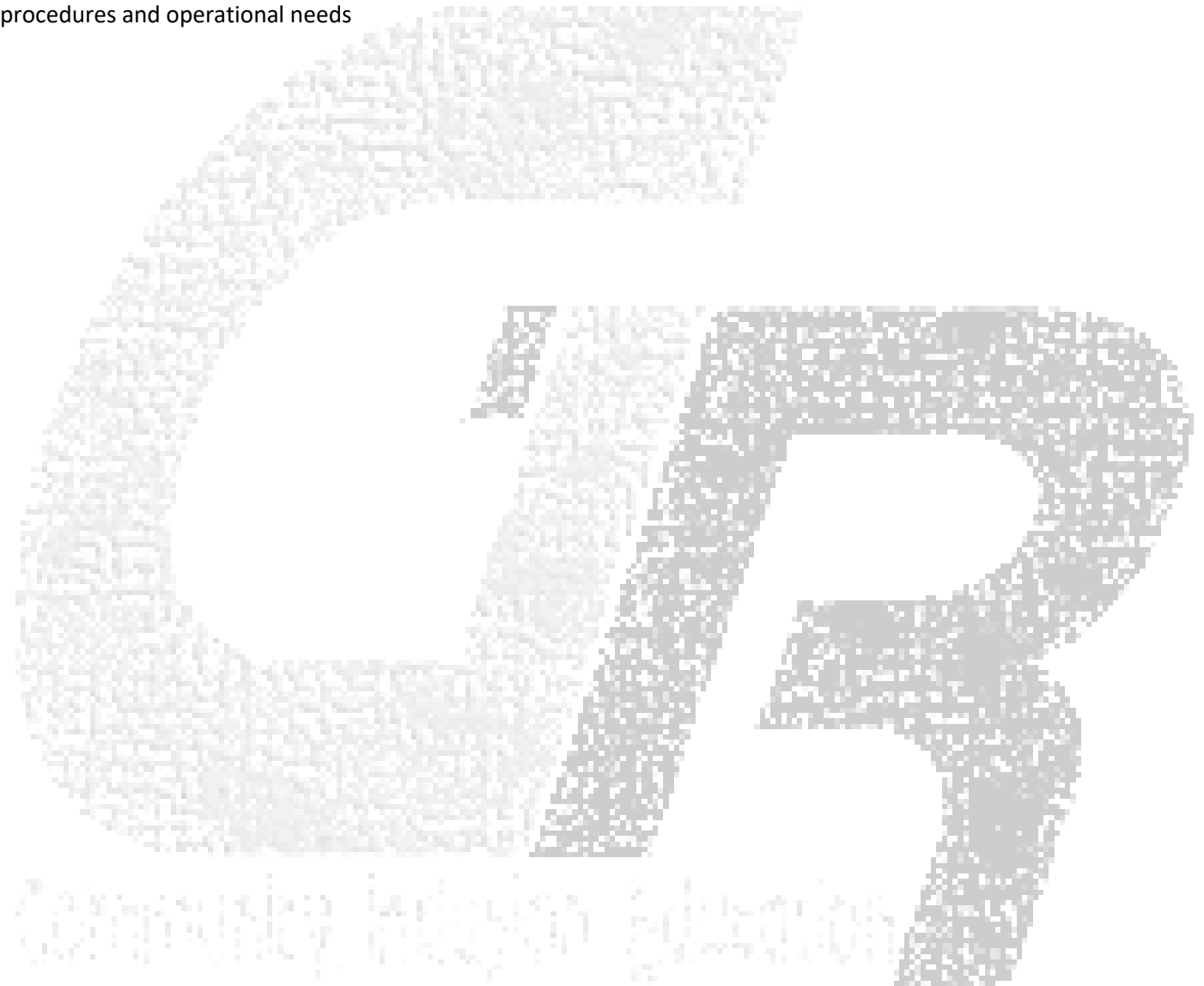
Training providers are required to retain all investigation documentation for one year following the conclusion of the investigation. In an investigation involving a criminal prosecution or civil claim, records should be retained for one year after the case and any appeal has been heard.

Records should include:

- A report containing a statement of the facts, a detailed account of the circumstances of alleged malpractice, and details of any investigations carried out by the training provider into the suspected case of malpractice
  - Written statements from the training provider staff and learners involved
  - Any work of the learner and internal assessment or verification records relevant to the investigation
  - Details of any remedial actions taken to ensure the integrity of the certification now and in the future
- 10  
Review and Monitoring This policy will be reviewed, as a minimum, on an annual basis in line with departmental quality standards and regulatory criteria.

## Disclaimer

This document has been provided by the Awarding Body to help illustrate a possible approach to suspected malpractice and maladministration. It is not intended to be prescriptive nor indicate that this is the only approach acceptable to the Awarding Body, nor is it intended to imply that using it will guarantee compliance with the Awarding Body requirements as it is each training provider's responsibility to ensure they have in place appropriate internal controls and audit trails and whilst this document may suggest a way of undertaking certain activities, its use alone will not automatically confirm compliance. Training providers may decide to use this document and its contents to assist them with the delivery of the Awarding Body qualifications and/or tailor it to reflect internal procedures and operational needs



## Indicative Sanctions Against Training Providers

Proposed sanction	Broad reason for the sanction
Written warning	Minor non-compliance with the regulations or maladministration with no direct or immediate threat to the integrity of an assessment
Review and report (Action plans)	A breach of procedures or regulations which if left unchecked could result in a threat to the assessment
Approval of specific assessment tasks	A failure in a specific subject or sector area relating to the nature of the assessment tasks chosen
Additional monitoring or inspection	A failure of the training provider's systems resulting in poor management of the assessment, or inadequate invigilation.
Removal of training provider staff usage	A loss of confidence in certain training provider's staff. May result in the member of staff being barred from involvement in all the Awarding Body qualifications or certain elements such as, invigilation, administration or marking.
The deployment of independent invigilators	A loss of confidence in the training provider's ability to invigilate assessments.
Suspension of learner registrations	Threat to the interest of learners registered on the qualification
Suspension of certification	Loss of the integrity of assessment decisions; danger of invalid claims for certification
Suspension from Testing	Loss of confidence in training provider conducting live assessments
Withdrawal of approval for specific qualifications	Repeated breach of the regulations relating to a specific qualification. Alternatively, a breakdown in management and quality assurance arrangements for a specific qualification or sector/subject area
Withdrawal of training provider recognition	Loss of confidence in the Centre Manager or senior management of the training provider. Breakdown in management and quality assurance arrangements for some or all accredited qualifications offered by the training provider. Failure to co-operate with awarding body requests to thoroughly investigate suspected malpractice. Failure to implement a specified action plan. Repeated instances of non-conformance or malpractice.

## Indicative Sanctions Against Learners

Type of Offence	Will receive a warning if	The Exam/Test will be voided if
Calculators, dictionaries (when prohibited)	not used	used
Bringing prohibited materials into the exam	not used	notes/annotations have been used deliberately to gain an advantage
Mobile phone or other similar electronic devices (including iPod, MP3/4 player, Smartphone Smartwatch)	not in the learner's possession but makes a noise in the examination room	it is in the learner's possession and there is evidence of it being used by the learner or if it is a second offence (for another module / test)
A breach of the instructions or advice of an invigilator in relation to the examination rules and regulation	it is a minor non-compliance; e.g. sitting in a non-designated seat; continuing to write for a short period after being told to stop	major non-compliance; e.g. refusing to move to designated seat; significant amount of writing after being told to stop
Failing to abide by the conditions of supervision designed to maintain the security and integrity of the examinations	they removed the script or test paper from the exam room, but with proof that the script has not been impaired; integrity has not been impaired (learner unaware of regulations)	they removed the script or test paper from exam room but with no proof that the integrity of the paper is maintained; taking home material (learner did it deliberately)
Disruptive behaviour in the examination room or assessment session (including the use of offensive language)	it is a minor disruption lasting short time; calling out, causing noise, turning around	causing noise, turning around it is a repeated or prolonged disruption; unacceptably rude remarks; being removed from the room; taking another's possessions. warnings ignored; provocative or aggravated behaviour; repeated or loud offensive comments; physical assault on staff or property
Exchanging, obtaining, receiving, or passing on information which could be examination related (or the attempt to):	it is an isolated incident of talking before start of exam or after papers have been collected	they are talking about exam related matters during the exam; whispering answer to questions. passing exam related notes to other learners; helping one another; swapping scripts
Collusion: candidate's work reflects extensive similarities and identical passages due to a deliberate attempt to share work		learners' work reflects extensive similarities and identical passages, due to a deliberate attempt to share work
Plagiarism: unacknowledged copying from or reproduction of published sources (including the internet); incomplete referencing	Minor amount of plagiarism / poor referencing in one or two places	plagiarism from published work not listed in the bibliography or plagiarised text consists of the substance of the work submitted and the source is listed in the bibliography
The alteration or falsification of any results document, including certificates		falsification or forgery
Misuse of, or attempted misuse of, examination material and resources		misuse of examination material or exam related information, including: attempting to gain or gaining prior knowledge of examination information; improper disclosure (including electronic means); receipt of examination information or removal of secure information from the examination room
Personation		deliberate use of wrong name or number; impersonating another individual; arranging to be impersonated
Behaving in a way as to undermine the integrity of the examination/assessment		for example, attempting to obtain certificates fraudulently; attempted bribery; attempting to obtain or supply exam materials fraudulently
Multiple breaches during the same examination / test session		learner has been repeatedly warned and failed to comply

dated 4<sup>th</sup> January 2022